

In the United States District Court
For the Western District of Virginia
Danville Division

CLERK'S OFFICE U.S. DIST. COURT
AT DANVILLE, VA
FILED

JUN 12 2017

BY: JULIA C. DUDLEY, CLERK
DEPUTY CLERK

Brian David Hill)
Plaintiff(s))
v.)
Executive Office for United States Attorneys)
(EOUSA))
&)
United States Department of Justice (U.S. DOJ))
Defendant(s))
Civil Action No. 4:17-cv-00027

**DECLARATION OF BRIAN DAVID HILL IN SUPPORT OF DOCUMENT 2 COMPLAINT
AND IN SUPPORT OF MOTION UNDER RULE 45 ASKING THE CLERK TO
SUBPOENA ATTORNEY JOHN SCOTT COALTER FOR DISCOVERY AND TO PROVE
THE FACTUAL MATTER UNDER COMPLAINT**

Quick Statutory Memorandum in Support of Doc #2 and Doc #4

Note: You're Honor, I respectfully request with The Court act on the Document #4 MOTION expeditiously, as I have requested in my Document 2 complaint, and have given good reason as to such. My time to file a Rule 33 Motion for a New Trial has run out but I have decided that I must gather the evidence to prove actual innocence before the evidence is destroyed by the Government. Once the evidence is destroyed, it is gone forever and my ability to prove actual innocence will be impossible, as proving any fact of innocence will be impossible without the original evidence and without the discovery packet. See (Document #2) as to my original complaint that requested the case to be expedited. Quoting from Doc. #2: "The Federal Courts Improvement Act, 28 U.S.C. § 1657 (2000), provides that FOIA proceedings generally ("take precedence over all cases on the docket and shall be . . . expedited in every way"); see also Freedom Communications, Inc. v. FDIC, 157 F.R.D. 485, 487 (C.D. Cal. 1994) ("The Court offers its

assurance to all concerned that it will continue to handle all matters in this action in an expeditious manner.”

Second request with the Court is that copies of this Declaration and all attachments should be served upon the Government as stated in 28 U.S.C. §1915(d), that “The officers of the court shall issue and serve all process, and perform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases. I applied the wrong civil Rule in Document 4 as I figured out that applies to serving the summons. However I believe this statute is more appropriate in my request that copies be served with the Government and the U.S. Attorney office of Roanoke, VA via CM/ECF Notice of Electronic Filing (“NEF”) email, by facsimile if the Government consents, or upon U.S. Mail. I ask that they be served with copies of this Declaration. Thank You!

The plaintiff (“Brian D. Hill”) files a Declaration with the Court that further supports the evidential and/or legal basis under **Document #2 COMPLAINT**, and under **Document #4, “MOTION Under Rule 45 Asking the Clerk to Subpoena Attorney John Scott Coalter for Discovery and to Prove the Factual Matter Under Complaint by Brian David Hill.”**

This Declaration also contains a request, stated above, under 28 U.S.C. § 1657 (2000), that the Court expedite plaintiff’s Motion under Rule 45 (Fed. Rules civ. Procedure) to being granted by plaintiff’s filed subpoena (**See subpoena under Document #4-8, requesting that it be signed by the Clerk**) being given a signature from the appropriate Clerk of the Court (or chamber Clerk) to sign plaintiff’s requested subpoena to compel Attorney John Scott Coalter (“Mr. Coalter”) to

produce documents and any other tangible things of the entire criminal case discovery evidence packet to which is the primary issue of plaintiff's FOIA request.

The subpoena is supported by Rule 45 of the Federal Rules of Civil Procedure.

Rule 4.1. Serving Other Process (Fed. Rules civ. Procedure)

(a) IN GENERAL. Process—other than a summons under Rule 4 or a subpoena under Rule 45—must be served by a United States marshal or deputy marshal or by a person specially appointed for that purpose. It may be served anywhere within the territorial limits of the state where the district court is located and, if authorized by a federal statute, beyond those limits. Proof of service must be made under Rule 4(l).

So the Federal Rule 4.1 and statutory 28 U.S.C. §1915(d), both support serving this Declaration with the defendants and the Government.

The plaintiff needs the discovery evidence for the purpose of proving actual innocence, and without access to such evidence, makes it nearly impossible (if not impossible) to prove plaintiff's actual innocence in a Section 2255 Motion making it a risk of failure or risk of a higher prison sentence, when the plaintiff does have evidence which can point towards any facts of actual innocence via the "affirmative defense of frame up," as recognized by the United States Supreme Court.

Declaration

I, Brian David Hill, declare pursuant to Title 28 U.S.C. § 1746 and subject to the penalties of perjury, that the following is true and correct:

1. I am Brian David Hill, also known as Brian D. Hill, and am the plaintiff in the Federal civil case Brian David Hill v. Executive Office for United States Attorneys et al., Civil Case No. 4:17-cv-00027. I file this Declaration type of Affidavit with the Court with original signature as a sign of good faith and demonstrating factual evidence showing good cause for such action.
2. Mr. Coalter has betrayed my trust and won't let me have the discovery. My grandparent's asked him to send them the local rule to which he claimed is the reason why he cannot give me my criminal case discovery packet of evidence but he hasn't even sent to us the very rule that he himself claimed was why he cannot give me the papers and the Audio CD. He had made it clear on September 30, 2016, that it is against his interest to let me prove my actual innocence, as I believe he would be held accountable for being ineffective Counsel as to why I would falsely take the guilty plea. He acts as my enemy at this point, he still has the discovery evidence, and may now dispose/destroy the evidence. That is my major concerns. Mr. Coalter no longer needs to even have the discovery materials and should either be given to me or given to a newly designated Attorney to protect my due process. I believe subpoenaing Mr. Coalter is the best course of action, and to prove my claims in the complaint.
3. I and my family had attempted to find an Attorney to get the discovery evidence out of Mr. Coalter's hands, but that had failed. My family had got in contact with an Attorney named Emily Gladden of the 'Tin Fulton Walker & Owen' law firm located at 127 West Hargett Street, Raleigh, NC 27601. I and my family wanted her to get the discovery evidence out of Mr. Coalter's hands and she suggested that we could also work on trying for my actual innocence. So she gave my family a contract paper and she was going to further do some research before my mother signs a contract for her services as my private Attorney-of-record, and my family was going to use what little money they had to try to at least stop Mr. Coalter from blocking me any further from proving my innocence. On April 13, 2017, I tried to fax her some records that can help her to prove my innocence. At a later day which is sometime in April, 2017, I had received a phone call from my grandparents that informed me that Emily Gladden had heard from Mr. Coalter and was told some things, and after that her boss had decided that there was nothing we could do and decided not to do anything more. It has come to my attention that Mr. Coalter seems to be working against me and possibly sabotaging my criminal defense, by playing dirty games against me, and that he will never let any

other Attorney acquire the discovery papers. Then I also heard from grandpa or grandma that Mr. Coalter may dispose of the discovery papers. After that I was very angry enough to which my blood sugar could run high, and called the OGIS office of the National Archives threatening to sue the Government if Mr. Coalter destroys the discovery papers, which was left in a voicemail message. Mr. Coalter had harmed my mental health that day as I was very angry and also going towards depression which goes towards suicide. The only reason why I have not killed myself over the sex offender garbage, is because I still have some kind of hope of overturning my wrongful child porn conviction in Greensboro Federal Court. The feeling of being called a sex offender, a predator, a child pornographer, a pedophile, Michael Jackson (when he was found innocent in a court of law), it just drives me into anger, it drives me into hatred and feeling vulnerable, it drives me into sadness, it drives me into total fear and depression, because I was framed with child porn and gave a false confession. The way I have to comply with a ton of different sex offender restrictions, and laws can be passed in the future placing all sex offenders under more unreasonable, cruel and unusual punishment, type restrictions that don't seem to get the protection of the grandfather clause in my opinion, as if making all registered sex offenders suffer more and more restrictions and penalties for the rest of their lives will actually protect the children. There are children that I heard of became sex offenders, being treated the same as adult men child molesters, and some for very stupid reasons like teens texting their boyfriends and girlfriends around their own age. Nobody wants to change the broken sex offender laws, and nobody seems to want to help innocent people accused of sex crimes because of the stigmatization, in my opinion, as I kept begging for help and writing hundreds to likely thousands of letters and/or faxes and got nowhere. Yet all sex offenders are treated the same and are being treated very harshly and treated worse than murderers and worse than terrorists. Sex offenders are being treated worse than mass murderers that get the benefit of a public execution so they don't have to suffer extreme criminal penalties that they have to live with every day for the rest of their lives. What about all of the sex offenders that were innocent but were given a public pretender as a lawyer instead of a real defense attorney to ask questions and gather real evidence that can point towards innocence? I even plan to sue SORNA because of how I am being treated, how SORNA is cruel and unusual punishment, especially when I am not being allowed to prove my own actual innocence, the sex offender restrictions on me are unreasonable and wrong. It is that kind of garbage why I talked about suicide, because of what Phil Berger Sr., his District Attorney Son Phil Berger Junior, and what the Town of Mayodan has done to me. I feel like they (not-literally) raped me, they took my life from me and I want my life back, I want my freedom back, I want my law abiding citizen status back, I want my conviction overturned and I want to prove my innocence. Mr. Coalter's

words and actions are making me sink into depression and lack of will to live. That is why I want to sue Coalter or the Government for the discovery evidence to prove my innocence so that I do not sink into suicide-level depression. I am NOT a sex offender and should have had a good lawyer to let me go over the entire discovery packet before the Jury trial was to have commenced on June 10, 2014. Mr. Coalter never even showed me the entire discovery packet before my final conviction and it was the same with Mr. Eric David Placke of the Federal Public Defender office.

4. I filed the FOIA request in hopes of stopping the continuing injustice, the mental rape of my mind by the abusers in the screwed up Town of Mayodan, the most corrupt small town I had ever dealt with on a personal level, the use of sex offender regulations against me to torment me and make me suffer, contemplating suicide, and trying to keep myself together. The more I fail, the more depressed I get and it brings down my health, and it will eventually damage me till I am permanently hospitalized with tons of future health problems that come out of my constant worry, depression, fear, hatred, anger, and bitterness. I keep being treated like a child rapist and I am a virgin. I used FOIA as a vehicle to sustain my lost due process rights that I was never given after I was indicted in November, 2013. All of this suicide talk was after the fact that I was coerced to falsely confess to two police detectives on August 29, 2012, so that is further evidence of coercion. I needed the confession Audio CD to prove to the Court that I did give a false confession but both of my defense lawyers never allowed any of it to be used in my defense. People don't just randomly talk about committing suicide until after dealing with a verbally abusive (that is what I felt I was going through) police force in Mayodan, NC, that hated my guts for writing news articles critical of Mayodan and Sen. Berger, and for trying to nullify the National Defense Authorization Act ("NDAA") of 2012 for attempting to allow what I believe to be Government sanctioned abductions and torture of any American citizen even remotely accused of terrorism. Americans can be abducted and/or tortured even if the evidence may be fraudulent because under torture anybody will admit falsely to terrorism so that the torture stops. The town of Mayodan did not like me standing up against Agenda 21 and torture inside of their town-council chambers. Anyways I believe the Detectives had verbally pressured me, made me feel like I am the worst kind of person on this earth, lied to me, and made me feel that I needed to falsely confess to the conduct that I was being accused of. They told me that they had found child porn on my computer but never showed me a single picture and never described what was in the alleged claim of what they claimed to have been found, they never proved any of that to me during the interrogation, just made a claim that they saw it, and led me to believe that I better just give them a false confession, to tell them what they had wanted to hear. They went on to not just compelling me to falsely admit guilt but saying things about little girls at Walmart

and one Detective (I believe that it was Robert Bridge of Reidsville) told me "Hey! She's a cute little girl." They also told me about what I remember was they were referring to adult porn one or two of them were into or at least claimed they may have been into. They had confused me between adult porn and child porn and that also makes me a victim of echolalia, repeating what I heard from law enforcement during the police raid the day before, repeating what I had read in the search warrant affidavit as they were descriptive about child porn so anybody with a vivid imagination (especially Autism) would start to come to conclusions to which can help give false confession statements that cannot be proven entirely factual like something out of a fairy tale, this is not a fairy tale, but this was a nightmare. Out of fear and being verbally abused by the Detectives (*I consider what the Detectives did while interrogating me was verbal abuse since one or two of them had an agenda to destroy me for what I did in the Town of Mayodan on a political scale*). Mayodan had led me to almost committing suicide, and led to evidence suggesting that I had talked about commit suicide 8 or 9 days after my confession as I knew they got me to falsely admit guilt so I was done for. They had me believing that I was guilty myself after what all they were saying to me. I can prove coercion and that I gave a false confession but only if the U.S. Attorney or John Scott Coalter give me unfettered access to the discovery evidence, and allow me to give any copies or temporary give the original to independent expert witnesses to make a determination on any facts of my false confession and any facts of me being framed with child pornography. There are things that were said in that Audio CD that are not in the Mayodan Police report. I had also wondered if the confession audio was not recorded in its entirety and may have been botched up, so I had wanted an expert witness to analyze the U.S. Attorney's confession Audio CD of my false confession, and determine whether the audio was in whole or whether any sections of the tape recording were altered or removed. If the audio were of fragments instead of it being whole and unaltered, then the confession audio CD is not valid evidence and never should have been used against me in Federal Court leading to my false guilty plea which holds me liable under penalty of perjury. I had no defense Attorneys and none of them ever believed in my innocence except for Renorda Pryor but she cannot help me on anything other than the U.S. Probation Supervised Release revocation hearing. I never got to see all of my discovery until after I was convicted. Then I see things in there that could have got me found not-guilty by a Jury or have the case dismissed on lack of valid evidence, but both of my defense Attorneys didn't do anything except got me to plead guilty, and/or make me stick with it.

5. Mr. Coalter's office is in Greensboro, NC. Every time I wish to review over the discovery evidence, I would have to contact my Probation Officer to get permission just to have a short period of time to review over the discovery evidence. Mr. Coalter has it very inconvenient for me

to prove my innocence, basically almost impossible the way the discovery agreement was set up against me, and I never even saw the discovery agreement that Mr. Coalter had mentioned. If my Probation Officer doesn't have his phone with him and I am not able to get his permission, then I cannot go down to Mr. Coalter's office to look over the discovery evidence again, plus it will be based upon his schedule, his rules, and he admitted that he was in conflict of interest for me to prove actual innocence. He will never let me prove my innocence. This FOIA request is necessary to prove my actual innocence. I have a good Probation Officer, but the restrictions placed on my travel, makes it inconvenient for me but convenient for Mr. Coalter to continue stonewalling me, and stonewalling any Attorneys that I beg to help me, and Mr. Coalter won't let me prove my innocence. I need him subpoenaed to prove that the U.S. Attorney has covered up or concealed records after I had admitted at the final Supervised Release revocation hearing on June 30, 2015, and on various pro se filings that I still had intended to file a 2255 Motion and prove my innocence to the charge that I had plead guilty to. The U.S. Attorney knew of my FOIA request since it involves his office and a copy of the FAX to the EOUSA was also faxed to the U.S. Attorney office in Greensboro. He knew that I wanted to prove my innocence, I was even mocked me of my claim at the hearing by saying on the "USA v. Brian Hill -- SRV Hearing -- 6/30/2015," Court Transcript, and that was AUSA Anand Prakash Ramaswamy that had control of the records subject to the FOIA. AUSA Ramaswamy or USPO Kristy L. Burton states in open Court that "*Yes, sir. I mean, it's the same information of him being set up. It's the same type of information that he faxes to me or the Court or files within the system. It's the same language every time.*" So they all admit that I keep saying, over and over again, for years that I am innocent and want to prove my innocence, however I seem to be blocked or stonewalled, one way or another, and I am having am admit on record that I am being blocked under because it is true to the best of my knowledge. That is why my FOIA request was very important. It also said in another part of the Transcript of the June 30, 2015, hearing that "*because Mr. Hill believes that he's been set up in this case, and he's very adamant about that.*" The Judge Thomas D. Schroeder even admitted that "*By reading those, there is clearly an attitude of defiance and refusing to accept his own guilty plea and a claim that he's been framed,*" which is entirely true because I was given a court appointed lawyer that had no interest in proving my innocence but would work with me on taking the guilty plea then getting to the next case. If at the beginning, I had a fair trial, I had a lawyer that did fight to prove my innocence, then I wouldn't be fighting right and left in Federal Court in Greensboro or anywhere to try to demonstrate that I am actually innocent and wish to prove the facts of it, but both the Government and Mr. Coalter are blocking me, as much as they can legally get away with. Same with Mr. Placke, deleting email attachments that my family had emailed him. My family showed me

print-outs of the Federal Public Defender assistant deleting email attachments and then he lied to the Judge N. Carlton Tilley Junior on June 4, 2014, that he had no good faith evidence to support the basis for suppressing evidence as per my pro se motions that were filed which were discussed at the Status Conference. I know for a fact that Mr. Placke lied to a Federal Judge because of what I saw in the discovery papers. There were things he could have used to have me found not-guilty by a Jury. This FOIA lawsuit is my only hope without getting myself entangled with the Greensboro Federal Court system that will fight viciously to protect Mr. Placke and likely Mr. Coalter. I can only get real due process from a Court outside of the Middle District of North Carolina, which is why I had chosen Danville, Virginia for this lawsuit, to protect my due process right to try to prove my innocence which I had been denied since I was arrested by the U.S. Department of Homeland Security ("DHS"), that I been denied since I was assigned a public defender attorney, a right that I was never given so I waived rights in my plea agreement that I never even had before the trial, my rights were totally deprived. The sex offender conviction in my view is wrong and should be reversed. The sex offender registry caused me to almost commit suicide, talked about it in 2012, almost attempted it in December, 2013, and then there was the false confession which set me to fail in Court since I had no real defense Attorney to fight fairly under the adversarial system to prove my innocence or raise a ton of reasonable doubts from the Government's evidence alone. I could have been found not-guilty by a Jury if I have had a better lawyer than what I was given in Greensboro.

6. Attached hereto as Exhibit 1, is a true and correct "Declaration of the September 30, 2016 visit with Attorney John Scott Coalter" that is nine pages long. This is 9 pages. I was creating this originally for a lawsuit that I am planning to file against John Scott Coalter. I have not filed the lawsuit against Coalter yet as I am concerned about jurisdiction being in Greensboro, North Carolina, as he may be close with Chief Judge William Lindsey Osteen Junior, and is a CJA Panel attorney so I will likely not receive impartiality of due process in suing Mr. Coalter in Greensboro. He mentioned about Judge Osteen on Sept. 30, 2016, about Judge Osteen going after another client of his that had wanted to get out of their guilty plea, as if a claim to try to scare me into not trying to prove my innocence. He did make a claim (however I was the only witness so it would be my word against his which would fail drastically) that shows he and Osteen may somehow have him not to be impartial but if I go any further Mr. Coalter will likely retaliate. However I may need further evidence to be sufficient to have jurisdiction and venue away from Greensboro, NC where I may face a biased Judge in that lawsuit if I am forced to file it in Greensboro. I am filing this Declaration as evidence since it provides further evidence as to Mr. Coalter. So I am sticking with the FOIA lawsuit and hope that the Government gives me a copy of the entire discovery evidence for my criminal case as originally a copy was

given to Mr. Coalter. I am concerned that I would face some form of retaliation which could lead to attempts at revocation of my Supervised Release, in response to the lawsuit if it proceeds in Greensboro, NC. However I feel that since my subpoena is for Mr. Coalter that the Court should review over this Declaration and other previously filed Exhibits as to why he needs to be subpoenaed, as for the matter of the interest of justice. It is my concern that suing Mr. Coalter may be out of the question if the personal-jurisdiction law forces me to file the lawsuit in his jurisdiction in Greensboro, NC, where he knows the Judge or Judges which will make it impossible for me to get my discovery to prove my innocence. Wasting my time and I may get penalties over trying to prove my innocence before it will ever began. I am fearful that I will never get due process in Greensboro. So my only hope is winning this FOIA lawsuit so that I can prove my innocence. Mr. Coalter doesn't want me to prove my innocence and will work against me every step of the way. It is to my belief that he knows the Judge or Judges in his judicial district so he can freely do whatever he wants to prevent me from proving my actual innocence.

7. Attached hereto as Exhibit 2, is a true and correct copy of a 1-page medical record, dated on September 6, 2012. From the date started of my false confession on August 29, 2012, (counting August 29) to September 6, 2012, would be approximately 8 or 9 days after the confession was recorded and then at some point burned into an audio CD which is in the discovery evidence, that Mr. Coalter has a copy of from the U.S. Attorney in Greensboro, North Carolina. Exhibit 2 documents that I was depressed and talking about suicide 8 or 9 days after the fact that I was badgered by the Detectives to falsely confess to guilt on August 29, 2012, leading me into talking about killing myself aka committing suicide which was reported by Dr. Andrew Maier. Just in case the words on this medical record isn't legible, it says and I quote from Exhibit 2 that "Brian Hill is a current patient at Western Rockingham Family Medicine. He has a diagnosis of Type I Diabetes, GERD, Autism, and depression with suicidal thoughts. His medication list is as follows: Nexium 40mg, 1 po qd, Lantus Sola star pen, 36 units q hs. Novolog flex pen-sliding scale, Lisinopril 5mg, 1 po qd. Mr. Hill has an inability to take care of himself, therefore needs around the clock care. If further assistance is required, please do not hesitate to contact our office at (336) 548-9618." It also stated that it was "Sincerely, Andrew Maier, PA-C Western Rockingham Family Medicine." The address and contact information in the Exhibit is "401 W. Decatur Street, Madison, North Carolina 27025," and "Office: (336) 548-9618 FAX: (336) 548-4877".
8. Attached hereto as Exhibit 3, is a true and correct copy of excerpt of a 1-page out of a letter of 7 pages from Kevin Wetzel of SLC Security Services LLC, 2644 Timber Dr. Suite 342, Garner NC 27529, and Phone number of 919-441-7353. One claim he made over the phone was that he had contacted the SBI about my computer and his call was not returned.

I cannot include the other 6-pages (the contract from SLC Security) in this public filing as it is confidential and may constitute legal issues by filing the entire letter, so I need to keep the other six pages to myself unless the Court asks me for the papers, then you can get the entire contract from my mother Roberta Hill. Since they are an independent computer forensic expert organization, I reserve them for when I file my 2255 Motion, then ask for the CJA voucher to pay for the computer expert services, an audio expert to analyze the Audio CD to determine if the audio of the interrogation was botched up which makes it not credible evidence of guilt but is a frame up job, and the last thing is a psychologist to evaluate me over my false confession and how my Autism was used to manipulate me into giving a false confession.

9. Attached hereto as Exhibit 4, is a true and correct copy of a 3-page white paper by independent expert named Dennis Debbaudt who was reported to be training law enforcement. His white paper or report titled the "Interview and Interrogation of people with autism (including Asperger syndrome)" talks about the issues of somebody on the Autism Spectrum being interviewed or interrogated by law enforcement and that they may give a confession that may not be deemed true, accurate, and reliable. He can be subpoenaed at the address 2338 SE Holland Street, Port St. Lucie, Florida 34952-4831. His phone number is (772) 398-9756.
10. Attached hereto as Exhibit 5, is a true and correct copy of a 3-Page Declaration that was signed by witnesses Roberta Hill, Stella Forinash, and Kenneth Forinash.
11. That is why I need the discovery evidence from John Scott Coalter. I have the witnesses available once I start the cross examinations of the criminal case discovery evidence. I can't do all of this at Coalter's office with restrictions on my travel, on me not being allowed to use the internet, the computer restrictions. I cannot continue having to travel down to Mr. Coalter's office just for likely a few hours of time, each time, to go through the discovery evidence on a pro se basis. I need the discovery evidence in my hands, to be able to determine the facts of innocence. I am ready to prove my innocence but I need a copy of the discovery evidence.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 8, 2017.

Brian D. Hill
Signed
Signed

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